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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)	Case No. 2:10-cr-00440-ECR-LRL
)	
Plaintiff,)	
)	ORDER
vs.)	
)	
NELSON OSEMWENGIE,)	
Defendant.)	
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On August 16, 2011, Defendant filed a motion (#26) to enforce judgment.

The motion states that for Defendant to be credited for time served as a concurrent sentence, the Bureau of Prisons requires that the judgment and commitment order so state. The motion is somewhat difficult to interpret, but we assume the thrust of it is that the judgment and commitment order did not include a recommendation to the Bureau of Prisons that Defendant receive credit for time served against the sentence we imposed. This is a recommendation to the Bureau of Prisons which we frequently make at sentencing in such cases. Our assumption generally is that the Bureau of Prisons fairly automatically grants such credit, but based on the pleadings here, it may not do so where the sentence imposed is made concurrent with other prior sentences that Defendant is serving.

An aspect of the case is that, if Defendant is receiving credit on other federal sentences while awaiting sentencing here, he is unlikely to be entitled as


1 well to credit against the sentence we imposed.

2 The transcript of the sentencing proceeding does not indicate that the issue
3 of credit for time served was considered one way or another at the sentencing
4 hearing. We would be willing to entertain consideration of credit for time served
5 against the concurrent sentence we imposed if there is an appropriate vehicle for
6 this Court to consider this issue. The Government's opposition to the present
7 motion indicates that this issue may now be raised only by way of a motion, after
8 exhaustion, pursuant to 28 U.S.C. § 2241 in the District of Arizona where
9 Defendant is incarcerated.

10 IT IS ORDERED that Defendant's motion (#26) to enforce judgment is
11 **DENIED** without prejudice.

12 THEREFORE, IT IS ORDERED that Defendant shall have fourteen (14)
13 days within which to file an amended motion seeking relief, taking into
14 consideration the matters set forth above and any others that may be appropriate.
15 The Government will thereafter have fourteen (14) days to respond to the
16 amended motion. There shall be no reply.

17 Dated this 21st day of September 2011.

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20 EDWARD C. REED, JR.
21 United States District Judge
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